

RESOLUTION NO. 2013 – 08

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY
TO THE COMMUNITY DEVELOPMENT COMMISSION AS
THE NATIONAL CITY REDEVELOPMENT AGENCY APPROVING
THE SUCCESSOR AGENCY'S RECOGNIZED
OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD
JANUARY 1, 2014 THROUGH JUNE 30, 2014 (ROPS 13-14B)

WHEREAS, the City Council established the Redevelopment Agency of the City of National City (the "Redevelopment Agency") by Ordinance No. 1164, dated April 11, 1967; and

WHEREAS, the City Council established the Housing Authority of the City of National City (the "Housing Authority") by Ordinance No. 1484, dated October 14, 1975; and

WHEREAS, the City Council established the Community Development Commission of the City of National City (the "CDC") by Ordinance No. 1484, dated October 14, 1975, and vested the CDC with all of the powers, duties and responsibilities of both the Redevelopment Agency and the Housing Authority, among other matters, for the purpose of enabling the CDC to operate and govern the Redevelopment Agency and the Housing Authority under a single board and as a single operating entity. The Community Development Commission of the City of National City acting in its capacity as the Redevelopment Agency of the City of National City is referred to herein as the "CDC-RDA"; and

WHEREAS, pursuant to Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) signed by the California Governor on June 28, 2011 ("AB 26"), as modified by the California Supreme Court on December 29, 2011 pursuant to its decision in *California Redevelopment Association v. Matosantos*, which amended, among other statutes, the California Community Redevelopment Law (Health & Safety Code §§ 33000 *et seq.*) (the "CRL"), all California redevelopment agencies, including the Redevelopment Agency and the CDC-RDA, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, pursuant to AB 26, the City Council of the City adopted Resolution No. 2012-15 on January 10, 2012, electing to be the Successor Agency to the CDC-RDA. The Successor Agency is a legal entity that exists separate and independent from the City. The Successor Agency formally named itself the "Successor Agency to the Community Development Commission as the National City Redevelopment Agency"; and

WHEREAS, on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings and equipment of the Redevelopment Agency and the CDC-RDA were transferred by operation of law to the control of the Successor Agency and all authority, rights, powers, duties, and obligations previously vested in the Redevelopment Agency and the CDC-RDA were vested in the Successor Agency, for administration pursuant to Part 1.85 of AB 26; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 is to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of

AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies; and

WHEREAS, the Successor Agency is required to undertake several actions pursuant to Part 1.85 of AB 26 as amended by AB 1484, including submitting additional information with the ROPS and in a changed format as set by the Department of Finance; and

WHEREAS, under AB 26 as amended by AB 1484, each successor agency shall have an oversight board with fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property taxes and other revenues pursuant to Health and Safety Code Section 34188; and

WHEREAS, the oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily, though not exclusively, set forth in Health and Safety Code Sections 34179 through 34181 of AB 26 as amended by AB 1484; and

WHEREAS, pursuant to AB 26, the ROPS shall be forward looking to the next six months, thus a recognized obligation payment schedule for the period of January 1, 2014 through June 30, 2014 ("ROPS 13-14B") was prepared for consideration and approval by the Successor Agency; and

WHEREAS, according to Health and Safety Code Section 34177(l)(1) of AB 26, for each recognized obligation, the ROPS shall identify one or more of the following sources of payment: (i) Low and Moderate Income Housing Funds, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance, (v) the Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provision of Part 1.85 of AB 26 and (vi) other revenue sources; and

WHEREAS, the ROPS 13-14B shall thereafter be submitted for review and approval to the Oversight Board, and submitted to the County Auditor/Controller and Department of Finance; and

WHEREAS, it is the intent of AB 26 that the ROPS serve as the designated reporting mechanism for disclosing the Successor Agency's bi-annual payment obligations by amount and source and, subsequent to the audit and approval of the ROPS as specified in AB 26, the County Auditor/Controller will be responsible for ensuring that the Successor Agency receives revenues sufficient to meet the requirements of the ROPS during each bi-annual period; and

WHEREAS, notwithstanding the provisions of Health and Safety Code Section

34177(a)(1), agreements between the City and the CDC have been included in the ROPS 13-14B because, among other things, the Successor Agency believes that they have been validated by operation of law prior to the Governor's signature of AB 26 on June 28, 2011; and

WHEREAS, the Successor Agency, approved a resolution on September 17, 2013 approving the ROPS 13-14B, subject to the contingencies and reservations set forth herein; and

WHEREAS, on September 25, 2013 in the course of taking action on a properly agendized item at a special meeting, the Oversight Board considered the ROPS 13-14B as approved by the Successor Agency, and upon *(i)* further consideration of all information and documentation presented by staff, *(ii)* all public comment and Oversight Board deliberation, if any, and *(iii)* the recommendation of the Successor Agency's staff, did independently find and determine that the ROPS 13-14B should be approved; and

WHEREAS, the Successor Agency's ROPS 13-14B, which is consistent with the requirements of the Health and Safety Code and other applicable law, is attached to this Resolution as Exhibit "A"; and

WHEREAS, the Department of Finance periodically changes the format of reporting and the requirements, thus the Successor Agency staff may need to make changes to the ROPS 13-14B subsequent to the approval to have it compliant with the changing Department of Finance requirements; and

WHEREAS, ROPS 13-14B has been reviewed by the Successor Agency with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, the Successor Agency has determined and the Oversight Board has also determined (to the extent it is required to do so) that ROPS 13-14B is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because the ROPS 13-14B is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

- Section 1. The foregoing recitals are true and correct, and are incorporated herein as a substantive part of this Resolution.
- Section 2. The adoption of this Resolution and the Oversight Board's approval of ROPS 13-14B are not intended to and shall not constitute a waiver by the

Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB 26 or AB 1484 through administrative or judicial proceedings.

- Section 3. The Successor Agency's ROPS 13-14B, which is attached hereto as Exhibit "A", is approved except as specifically changed by the Oversight Board in approving this resolution.
- Section 4. The Executive Director, or designee, is hereby authorized and directed to:
- (i) Take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board; and
 - (ii) Take such other actions and execute such other documents as are necessary to effectuate the intent of AB 26 and AB 1484 in regard to ROPS 13-14B, including modifying and/or amending the ROPS 13-14B administratively to conform to the direction, guidance, and/or requirements related to ROPS 13-14B by of the Department of Finance.
- Section 5. The Oversight Board confirms the Successor Agency's determination (to the extent it is required to do so) that this ROPS 13-14B is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because ROPS 13-14B and this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
- Section 6. This Resolution shall take effect upon the date of its adoption and notice of this Resolution shall be transmitted to the Department of Finance by electronic means and shall be subject to review pursuant to Health & Safety Code Section 34177(m).

--- Signature Page to Follow ---

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NOW, THEREFORE, BE IT RESOLVED that the foregoing resolution was duly and regularly adopted at a regular meeting of the Oversight Board for the Successor Agency to the Community Development Commission as the National City Redevelopment Agency held on the 25th day of September, 2013, by the following vote:

AYES: Fellows, Carson, Desrocherd, Morrison, Perri, Hentschke

NOES: None

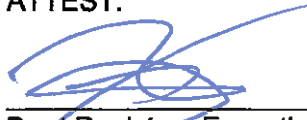
ABSENT: Donaldson

ABSTAIN: None



Ron Morrison, Chairman

ATTEST:



Brad Raulston, Executive Director
Secretary to the Oversight Board

APPROVED AS TO FORM:



Oversight Board Counsel
Edward Z. Kotkin, Esq.
Cummins & White